IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWELFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HONOURABLE MS JUSTICE G.ROHINI

WRIT PETITION No.5470 of 2004

Between:

Shaik Abdul Gafoor S/o.Khader Saheb, Aged 66 years,
R/o.Kothapalle of Rayachoti Town Cuddapah District.

..... PETITIONER

AND

1 The Deputy Inspector General of Police, Kurnool, Range, Kurnool,

Kurnool District.
2 The Superintendent of Police, Kadapa, Kadapa District.
3 Sri Naganna Circle Inspector of Police, Rayachoty(Urban) Rayachoty
Kadapa District.
4 Palakonda Rayudu Ex.MLA.,
Rayachoty, Kadapa District.
5 Sri Allabaksh F.P.Shop Dealer-cum-Real Estate Broker,
Bethalanagar, Rayachoty Kadapa District.
6 Thalib Khan S/o.Akbar Khan
Bethalanagar, Rayachoty Kadapa district.
7 King Kong Rayachoty, Kadapa District
8 Mr.Amanulla Khan Kothapeta, Rayachoty, Kadapa District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other appropriate writ, order or direction directing respondents 1 and 2 to provide protection to the petitioner and his family members including the property belonging to the petitioner situate in Sy.No.3/6 of Moosapeta Revenue Village, Rayachoty Town, Kadapa district measuring an extent of 75 cents by declaring the action of the 3rd respondent in interfering with the life, liberty and property of the petitioner at the behest of Respondents 4 to 8 as arbitrary, illegal and

unconstitutional.

Counsel for the Petitioner: MR.T.NAGARJUNA REDDY

Counsel for the Respondent Nos.1 & 2: GP FOR HOME

Counsel for the Respondent Nos.5, 6 & 8: Mr. Kovvuri Venkatarami Reddy

The Court at the admission stage made the following:

ORDER:

The petitioner seeks a writ of mandamus directing the respondents-1 and 2 to provide protection to the petitioner and his family members as well as the property belonging to the petitioner situated in Survey No.3/6 of Moosapeta Revenue Village, Rayachoty town, Kadapa District to an extent of Ac.0.75 cents.

In the affidavit filed in support of the writ petition, it is alleged that the petitioner is the owner of the said land in Survey No.3/6 of Moosapeta Revenue village and that he has been running a sawmill for the past 25 years. It is also stated that there are civil disputes in respect of the said property and O.S. Nos.5 of 1998 and 20 of 2000 are pending on the file of the Senior Civil Judge, Rayachoty and both the parties to the suits are directed to maintain status quo. It is alleged that at the instance of the fourth respondent herein, who is stated to be Ex-MLA of Rayachoty, a false case has been registered against the petitioner under Section 354 of the Indian Penal Code in Rayachoty Town Police Station and that the Respondents-5 and 8 with the help of the Police have been interfering with the peaceful possession and enjoyment of the petitioner in respect of the land possessed by him. It appears that the petitioner earlier filed W.P. No.23474 of 2002, which was already disposed of. Thereafter the respondents-4 to 8 trespassed into the land of the petitioner, set fire to the wood and damaged certain property, in pursuance of which, a crime has been registered by the Police. While so, at the instance of the respondents-4 to 8, the Mandal Revenue Officer, Rayachoty unauthorisedly initiated proceedings against the petitioner for removal of sawmill and passed as order to that effect on 13.11.2003 under Sec.133 of Cr.P.C., which was ultimately set aside by the Joint Collector on personal inspection of the premises in question. However, subsequently, the District Collector, Cuddapah by his order dated 19.1.2004 upheld the order of the Mandal Revenue Officer dated 13.11.2003 and directed the petitioner to remove the sawmill as well as the other structures. The petitioner filed Crl.R.C. No.95 of 2004 and the same has been allowed on 18.3.2004. Pending the Revision Petition this Court granted interim

suspension. However even before the orders were communicated, the structures were demolished and the petitioner was not allowed to enter into the land. Moreover the respondents-3 to 6 have been acting highhandedly and threatening the petitioner with dire consequences.

Now, the grievance of the petitioner in this writ petition is that the third respondent is interfering with the civil disputes pending between the petitioner and others at the instance of the fourth respondent. It is pleaded that there is threat to the life and liberty and property of the petitioner, and therefore, it is necessary to direct the respondents-1 and 2 to provide necessary protection. Hence, this writ petition.

On behalf of the Respondents-1 and 2, a detailed counter affidavit has been filed by the Superintendent of Police, Kadapa District denying all the allegations made by the petitioner. However, it is stated that it is a fact that there are civil disputes pending between the petitioner and the ubofficial respondents and that basing on the complaint of one Smt.B. Rani, Crime No.199 of 2002 was registered on the file of Rayachoti Town Police Station under Section 354 of the Indian Penal Code against the petitioner herein on 10.11.2002. The investigation has already been completed and charge sheet has been filed on 27.12.2002 and the same is pending on the file of Additional Judicial First Class Magistrate, Rayachoti vide P.R.C. No.4 of 2003. The allegation that with the help of the Police, respondent Nos.5 and 8 have been interfering with the possession of the petitioner has been denied and it is stated that the wife of the petitioner by name Smt.Razia Begum earlier filed W.P. No.23474 of 2002 for providing protection to the land in question and the same was disposed of by this Court on 23.7.2003 declining to grant such relief and it was left open to the petitioner therein to work out her remedies in accordance with law. It is also stated that no complaint has been received from the Plaintiff with regard to the alleged incidents on 15th and 16th March, 2004 and the allegations made against the third respondent are incorrect.

Though the counter affidavit has been filed on 5.4.2004, the petitioner did not choose to file any reply affidavit contradicting the counter averments. In the light of the unrebutted averments in the counter affidavit of therespondents-1 and 2, and in the absence of any material to substantiate the allegations made by the petitioner as to the alleged inaction on the part of therespondents-1 and 2, no relief can be granted in exercise of the jurisdiction under Article 226 of the Constitution of India.

The writ petition is accordingly dismissed, leaving it open to the petitioner to take appropriate proceedings as may be permissible under law. No costs.

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Date : AUGUST 12, 2004. **Ms. G. ROHINI, J**

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ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Deputy Inspector General of Police, Kurnool, Range, Kurnool,

Kurnool District.
2 The Superintendent of Police, Kadapa, Kadapa District.
3 Two CCs to the Government Pleader for Home,

High Court of A.P., Hyderabad (O.U.T)

4 Two CD copies.